

§ 1470.21

7 CFR Ch. XIV (1–1–11 Edition)

§ 1470.21 Contract requirements.

(a) After a determination that the application will be approved and a conservation stewardship plan will be developed in accordance with § 1470.22, the State Conservationist or designee will enter into a conservation stewardship contract with the participant to enroll all of the eligible land on a participant's agricultural operation.

(b) The conservation stewardship contract will:

(1) Provide for payments over a period of 5 years;

(2) Incorporate by reference the conservation stewardship plan;

(3) State the payment amount NRCS agrees to make to the participant annually, subject to the availability of funds;

(4) Incorporate all provisions as required by law or statute, including requirements that the participant will:

(i) Implement the conservation stewardship plan approved by NRCS during the term of the contract,

(ii) Operate and maintain conservation activities on the agricultural operation consistent with § 1470.23,

(iii) Comply with the terms of the contract or documents incorporated by reference into the contract,

(iv) Refund as determined by NRCS, any program payments received with interest, and forfeit any future payments under the program, upon the violation of a term or condition of the contract, consistent with § 1470.27,

(v) Refund as determined by NRCS, all program payments received with interest, upon the transfer of the right and interest of the participant, in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with § 1470.25,

(vi) Maintain and make available to NRCS upon request, appropriate records documenting applied conservation activity and production system information, and provide evidence of the effective and timely implementation of the conservation stewardship plan and contract, and

(vii) Not engage in any action during the term of the conservation stewardship contract on the eligible land covered by the contract that would inter-

fere with the purposes of the conservation stewardship contract;

(5) Permit all economic uses of the land that:

(i) Maintain the agricultural or forestry nature of the land, and

(ii) Are consistent with the conservation purposes of the contract;

(6) Include a provision to ensure that a participant will not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the participant, including a disaster or related condition, as determined by the State Conservationist; and

(7) Include such other provisions as NRCS determines necessary to ensure the purposes of the program are achieved.

§ 1470.22 Conservation stewardship plan.

(a) NRCS will use the conservation planning process as outlined in the NPPH to encourage participants to address resource concerns in a comprehensive manner.

(b) The conservation stewardship plan will contain a record of the participant's decisions that describes the schedule of conservation activities to be implemented, managed, or improved under the conservation stewardship contract.

(c) Associated supporting information maintained with the participant's plan will include:

(1) CMT documentation that will be the basis for:

(i) Identifying and inventorying resource concerns,

(ii) Establishing benchmark data on the condition of existing conservation activities, and

(iii) Documenting the participant's conservation objectives to reach and exceed stewardship thresholds;

(2) A plan map delineating enrolled land with associated acreage amounts;

(3) In the case where a participant wishes to initiate or retain organic certification, documentation that will support the participant's transition to or participation in the National Organic Program;

(4) In the case where a participant is approved for the on-farm research and demonstration or pilot testing option,

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a research, demonstration, or pilot testing plan consistent with design protocols and application procedures established by NRCS; and

(5) Other information as determined appropriate by NRCS.

§ 1470.23 Conservation activity operation and maintenance.

The participant will maintain and manage existing conservation activities on the agricultural operation to at least the level of conservation performance identified at the time the application is obligated into a contract for the conservation stewardship contract period, and additional activities installed and adopted over the term of the conservation stewardship contract.

§ 1470.24 Payments.

(a) *Annual payments.* Subject to the availability of funds, NRCS will provide, as appropriate, annual payments under the program to compensate a participant for installing and adopting additional conservation activities, and improving, maintaining, and managing existing conservation activities. A split-rate annual payment structure will be used to provide separate payments for additional and existing conservation activities in order to place emphasis on implementing additional conservation.

(1) To receive annual payments, a participant must:

(i) Install and adopt additional conservation activities as scheduled in the conservation stewardship plan. At least one additional enhancement must be scheduled, installed, and adopted in the first fiscal year of the contract. All enhancements must be scheduled, installed, and adopted by the end of the third fiscal year of the contract, and

(ii) As a minimum, maintain existing activities to the level of existing conservation performance identified at the time the application is obligated into a contract for the conservation stewardship contract period;

(2) To earn annual payments for an eligible land use, a participant must schedule, install, and adopt at least one additional conservation activity on that land-use type. Eligible land-use types that fail to have at least one additional conservation activity sched-

uled, installed, and adopted will not receive annual payments;

(3) A participant's annual payments will be determined using the conservation performance estimated by the CMT and computed by land-use type for eligible land earning payments. Conservation performance is prorated over the contract term so as to accommodate, to the extent practicable, participants earning equal annual payments in each fiscal year;

(4) The annual payment rates will be based to the maximum extent practicable, on the following factors:

(i) Costs incurred by the participant associated with planning, design, materials, installation, labor, management, maintenance, or training,

(ii) Income foregone by the participant, and

(iii) Expected environmental benefits, determined by estimating conservation performance improvement using the CMT;

(5) The annual payment method will accommodate some participant operational adjustments without the need for contract modification.

(i) Enhancements may be replaced with similar enhancements without adjustment of annual payment as long as the conservation performance is determined by NRCS to be equal to or better than the conservation performance of the additional enhancements offered at enrollment. An enhancement replacement that results in a decline below that conservation performance level will not be allowed, and

(ii) Adjustments to existing activities may occur consistent with conservation performance requirements from § 1470.23; and

(6) Enhancements may be applied on other land included in an agricultural operation, as determined by NRCS.

(b) *Supplemental payments.* Subject to the availability of funds, NRCS will provide a supplemental payment to a participant receiving annual payments, who also agrees to adopt a resource-conserving crop rotation.

(1) The State Conservationist will determine whether a resource-conserving crop rotation is eligible for supplemental payments based on whether the resource-conserving crop rotation is